

LAW AND CONTEMPORARY PROBLEMS

VOLUME X

WINTER, 1943

NUMBER I

FOREWORD

The widely-shared determination that the intense economic activity necessitated by war should not afford an opportunity for the reaping of extraordinary profits has made possible the enactment of a series of measures designed to keep wartime gains within reasonable bounds. Most conspicuous among these is the excess profits tax, which, in its present form, constitutes one of the most drastic levies ever imposed by an American government.

The huge sums of money exacted by this tax have required that the law imposing it be framed with meticulous care. As a result, the present act, which represents the third effort by the Congress and its Treasury advisers, is one of the most complex mechanisms ever to be incorporated in our already complex tax system.

The exposition of the principal provisions of this tax is the function of the first four articles in the symposium. The first of these traces the development of the tax law's structure and outlines its present form. The second article seeks to distill from the legislative provisions the essential concept of excess profits. A subject of intense practical importance—the grounds for "relief" to the taxpayer who claims abnormal experience in the base period—is considered fully in the third article. The last article in this group examines comprehensively the multifarious problems which spring from the impact of the tax on corporations that have passed through mergers or consolidations. A succeeding article depicts the difficulties which application of the statutory standards entail for the accountant who must provide the requisite data.

The succeeding group of four articles presents a different approach to excess profits taxation. In these articles the economic and fiscal context in which the excess profits tax is set has been developed, and an appraisal essayed of the place of the tax in our present, and in any post-war, tax systems.

The two concluding articles in the symposium are not, strictly, within the ambit of the excess profits tax. However, the subjects with which they deal, the tax problems of war plant expansion and of foreign war losses, relate to adjustments in the tax laws which were dictated by war exigencies and have been rendered all the more imperative by reason of the heavy tax rates applicable to corporate incomes and excess profits.

Closely related to the excess profits tax in certain of its aspects is the procedure of the War and Navy Departments and the Maritime Commission for renego-

tiating war contracts. The legal and economic phases of renegotiation will be the subject of the succeeding symposium, to be followed in turn by a symposium on a related subject of equally vital concern to the wartime economy: the termination of war contracts.

These symposia will be published, it is hoped, during the coming winter or early spring. As has already been announced, the long, yet inescapable, delays encountered in the organization of the current issue have convinced us that the publication of two issues per year will represent all that we can assure our readers until the war's end.

We are grateful to our subscribers for the patience they have manifested throughout the many months during which this symposium was overdue. And we are grateful also for the forbearance of those contributors who submitted manuscripts last winter and who, despite our inability to assemble the symposium on schedule, allowed us to retain and publish their papers. Fortunately, only a small degree of revision was required to bring them to date.

Commencing with the next issue, my colleague, Professor E. R. Latty will edit the quarterly, a leave of absence having been granted to me for service with the Government.

DAVID F. CAVERS.